

Limiting Landowner Liability to Promote Outdoor Recreation



in North Dakota

Outdoor recreation is popular in North Dakota throughout the year. Common activities are hiking, biking, horseback riding and off-highway vehicle driving in the summer, and snowmobiling, snowshoeing and cross country skiing in the winter. Private landowners or local government are often concerned about the liability of allowing public recreation on their lands.

North Dakota Century Code (NDCC) 53-08 protects landowners and local government by limiting the liability they may incur from public recreation on their property. The information in this flyer summarizes NDCC 53-08.

▶ A Landowner's Duty of Care

A landowner is not specifically required to keep the premises safe for recreational purposes regardless of the location and nature of the recreational activity and whether the entry (authorized or unauthorized) or use by others is for their own recreational purposes or is directly related to the recreational activity of other persons. Landowners are also not required to warn users of a dangerous condition, use, structure or activity on the property.

When recreational users choose to engage in an activity, they assume some of the risk inherent in outdoor recreation.

▶ Additional Protections

A landowner either directly or indirectly inviting or permitting others to use his or her property for recreational purposes free of charge is not required to:

1. Assure that the premises are safe for any and all purposes.
2. Confirm that the recreational users or any other person whose presence on the premises is directly related to recreational purposes are of legal and/or licensed status. (This does not include those who provide goods and services at the request and direction of the owner.)
3. Assume responsibility for injury to a person or damage to any property caused by the users. Persons using the land for recreation should be prepared for all conditions, safe or unsafe.



► Leasing to the State or Political Subdivisions

Unless otherwise agreed in writing, owners leasing land to the state or political subdivisions for recreation are not required to keep the property safe for others or warn users of any hazardous conditions, uses, structures or activities. In addition, owners are not required to:

1. Assure that the premises are safe.
2. Confirm that the recreational users are of legal and/or licensed status.
3. Assume responsibility for injuries or property damage.

Persons using the land for recreation should be prepared for all conditions, safe or unsafe. These provisions apply whether land users are invitees, licensees, trespassers or otherwise.

► Limits to Landowner Liability Protection

While NDCC 53-08 offers many protections to landowners, there are some limitations. NDCC 53-08 does not apply to:

1. A person who enters the land to provide goods and services at the owner's request.
2. A landowner engaged in a for-profit business venture that directly or indirectly invites members of the public onto the property for commercial purposes or during normal periods of commercial activity in which members of the public are invited.

Additionally, if an injury is suffered by a recreational user, a landowner is liable if:

1. There has been a willful and malicious failure to guard or warn against a dangerous condition, use, structure or activity.
2. The user has been charged for entry onto the land other than the amount, if any, paid to the owner of the land by the state, county or city. A charge does not include vehicle, parking, shelter or other similar fees required by any public entity.
3. The charges collected in the previous calendar year are more than:
 - a. Twice the total amount of property taxes imposed on the property; or
 - b. Four times the total amount of agricultural property taxes imposed on the property.

For more information on North Dakota Century Code 53-08 or for an alternate format of this publication, please contact the North Dakota Parks & Recreation Department:
1600 E. Century Avenue, Suite 3 | Bismarck, ND 58503
Phone: 701-328-5357 | Email: parkrec@nd.gov | Web: www.parkrec.nd.gov

The ND Parks & Recreation Department's facilities, programs & employment procedures are open to all, regardless of age, sex, race, color, disability, religion, or political affiliation. Contact us prior to your visit if you need an accommodation for a disability.

